

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAVIE LANG,

Plaintiff,

v.

TOWN OF SOMERS, *et al.*,

Defendants.

No. 21-CV-8503 (KMK) (AEK)

ORDER ADOPTING REPORT &
RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Lavie Lang (“Plaintiff”) brings this Action pursuant to 42 U.S.C. § 1983 alleging violations of the Fourth and Fourteenth Amendments to the U.S. Constitution, along with violations of New York law. (*See generally* Compl. (Dkt. No. 1-1).)

This Action was removed from New York Supreme Court, Westchester County on October 15, 2021. (Not. of Removal (Dkt. No. 1).) On April 19, 2022, the Court referred this case to Magistrate Judge Andrew Krause. (Order (Dkt. No. 10).) On December 13, 2022, Defendants filed a Motion To Dismiss Plaintiff’s Complaint. (Mem. of Law in Supp. of Mot. To Dismiss (Dkt. No. 34).) On December 15, 2022, the Court amended its Order of Reference to authorize Judge Krause to decide Defendants’ Motion. (Am. Order (Dkt. No. 36).)

On January 10, 2023, Judge Krause issued a Report and Recommendation (“R&R”) recommending that this Court dismiss the Complaint because of Plaintiff’s failure to prosecute. (Am. R. & R. (“R&R”) 12 (Dkt. No 38).) Judge Krause provided notice that, pursuant to 28 U.S.C. § 636(b)(1)(C), Rule 72(b) of the Federal Rules of Civil Procedure, objections to the R&R were due within 14 days from the receipt of the R&R, and that the failure to object or to request extensions of time to file objections within the relevant period of time would constitute a

waiver of Plaintiff's right to appeal. (*Id.* at 12–13.) Plaintiff has not filed any objections. (*See generally* Dkt.)

When no objections are filed, the Court reviews an R&R on a dispositive motion for clear error. *See Goodall v. Von Blanckensee*, No. 17-CV-3615, 2020 WL 1082565, at *1 (S.D.N.Y. 2020); *Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010); *Eisenberg v. New Eng. Motor Freight, Inc.*, 564 F. Supp. 2d 224, 226 (S.D.N.Y. 2008). The Court has reviewed the Complaint and R&R, and finding no substantive error, clear or otherwise, adopts the R&R.

Accordingly, it is hereby

ORDERED that the R&R, dated January 10, 2023, is ADOPTED in its entirety.

ORDERED that the Complaint is DISMISSED.

ORDERED that because Plaintiff has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, *see* 28 U.S.C. § 2253(c)(2); *Lucidore v. N.Y. State Div. of Parole*, 209 F.3d 107, 111–12 (2d Cir. 2000), and the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith. It is further

ORDERED that the Clerk of the Court is respectfully directed to mail a copy of this Order to Plaintiff and close this case.

SO ORDERED.

Dated: April 10, 2023
White Plains, New York

A handwritten signature in black ink, appearing to read 'KMK', with a horizontal line drawn underneath the letters.

KENNETH M. KARAS
United States District Judge